

FIRST REGULAR SESSION

# SENATE BILL NO. 10

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CAUTHORN.

Pre-filed December 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

0228S.01I

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## AN ACT

To repeal section 195.417, RSMo, and to enact in lieu thereof one new section relating to drug regulations, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 195.417, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 195.417, to read as follows:

195.417. 1. No person shall deliver in any single over-the-counter sale more than:

(1) Two packages or any number of packages that contain a combined total of no more than six grams of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers; or

(2) Three packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, or any number of packages of said combination drug that contain a combined total of no more than nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.

2. All packages of any drug having a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, shall be displayed and offered for sale only behind a checkout counter where the public is not permitted, or within ten feet and an unobstructed view of an attended checkout counter. This subsection shall not apply to any retailer utilizing an electronic antitheft system that utilizes a product tag and detection alarm which specifically prevents the theft of such drugs from the place of business where such drugs are sold.

3. This section shall supersede any municipal ordinances or regulations passed on or after December 23, 2002, to the extent that such ordinances or regulations are more restrictive than the provisions of this section. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to any products that the state department of health and senior services, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors or to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

4. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

5. Any person who knowingly or recklessly violates **subsections 1 to 4** of this section is guilty of a class A misdemeanor.

**6. (1) If any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers is dispensed, sold, or distributed in a pharmacy it shall be dispensed, sold, or distributed only by a licensed pharmacist or a licensed pharmacy technician. Any person purchasing, receiving, or otherwise acquiring any compound, mixture, or preparation shall produce a photo identification showing the date of birth of the person and shall sign a written log or receipt showing the date of the transaction, name of the person, and the amount of the compound, mixture, or preparation.**

**(2) Any business found to be in violation of this section shall be subject to a civil fine of not less than five hundred dollars but not more than two thousand dollars for each violation.**